

**DEPARTMENT OF STATE REVENUE****LETTER OF FINDINGS NUMBER 99-0204 ST  
SALES AND USE TAX****For Tax Periods: 1992 Through 1997**

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**Issue****Sales and Use Tax-Imposition**

**Authority:** IC 6-2.5-2-1 (a), (b), IC 6-8.1-5-1 (b).

Taxpayer protests the assessment of tax on its sales to Indiana customers.

**Statement of Facts**

Taxpayer is a Kentucky retailer who sells to Indiana customers. Taxpayer protested an assessment of Indiana sales and use tax, interest and penalty. Further facts will be provided as necessary.

**Sales and Use Tax-Imposition****Discussion**

Indiana imposes a sales tax "on retail transactions made in Indiana." IC 6-2.5-2-1 (a). As the retail merchant, Taxpayer has an obligation to collect the sales tax and remit it to the state of Indiana. IC 6-2.5-2-1 (b).

Taxpayer, a Kentucky retailer, sells waterbeds and spas to Indiana customers. Taxpayer contends that its sales to Indiana customers are not subject to the Indiana sales tax because title to the personal property transfers in Kentucky when the sale is consummated. Taxpayer alleges that another corporation then transports the property to Indiana and installs it for a separate delivery and installation fee.

Indiana Department of Revenue tax assessments are presumed to be correct. Taxpayers bear the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b). Although Taxpayer was given ample opportunity to submit evidence substantiating this contention, Taxpayer did not do so. Therefore, Taxpayer did not sustain its burden of proving that the tax assessment is incorrect.

**Finding**

Taxpayer's protest is denied.  
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